

**RADER,**

**FISHMAN**

**& GRAUER**

**PLLC**

*Worldwide Intellectual Property Matters • Patents • Trademarks  
Litigation • Copyrights • U.S. and Foreign Portfolio Management  
Computer and Internet Law • Trade Secrets • Unfair Competition*

**RECEIVED  
CENTRAL FAX CENTER**

**DEC 14 2006**

**To:** Commissioner for Patents

**From:** Steven L. Nichols

**Fax:** (571) 273-8300

**Pages:** 28 pages including coversheet

**Phone:**

**Date:** December 14, 2006

**Re:** Application No. – 10/021,287

☒ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable laws. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return original message to us at the above address via U.S. Postal Service.  
Thank you.

**Transmitted, herewith, are the following documents:**

1. Fax Cover Sheet (1 page)
2. Certificate of Transmission (1 page)
3. Transmittal of Appeal Brief with Duplicate Copy (2 pages)
4. Appeal Brief (24 pages)

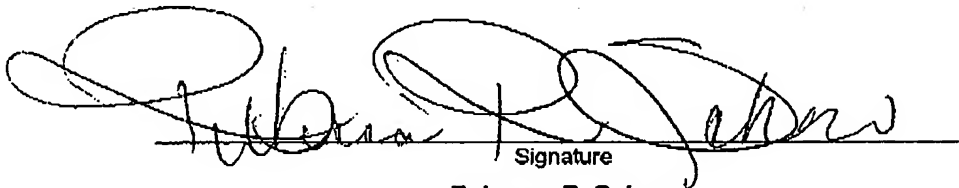
Application No.: 10/021,267

Attorney Docket No.: T8263.DIV

## Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents via the USPTO central facsimile number, (571) 273-8300.

on December 14, 2006  
Date

  
Signature  
Rebecca R. Schow  
Typed or printed name of person signing Certificate

**Transmitted, herewith, are the following documents:**

1. Fax Cover Sheet (1 page)
2. Certificate of Transmission (1 page)
3. Transmittal of Appeal Brief with Duplicate Copy (2 pages)
4. Appeal Brief (24 pages)

Dale Cheney

Serial No.: 10/021,267

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application: Dale S. Cheney

Application No.: 10/021,267

Filed: October 29, 2001

Title: "Vehicle Storage Box with Single Hinged  
Double Secured Compartments and  
Dual Actuating Cam Latches"

Confirmation No.: 9637

Examiner: MAI, Tri M.

Group Art Unit: 33781

RECEIVED  
CENTRAL FAX CENTER  
DEC 14 2006Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on October 19, 2006.The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$250.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provision of 37 CFR 1.136 (a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: CFR 1.17(a)-(d))  
for the total number of months checked below:

( ) one month	\$60.00
( ) two months	\$225.00
( ) three months	\$510.00
( ) four months	\$795.00

( ) The extension fee has already been filed in this application

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant had inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 18-0013/40371-0999 the sum of \$250.00. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 18-0013 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 18-0013 under CFR 1.16 through 1.21 inclusive, and any other section in the Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.(X) I hereby certify that this paper is being transmitted  
to the Patent and Trademark Office facsimile  
number (571) 273-8300 on December 14, 2006.  
Number of pages: 28Signature: 

Rebecca R. Schow

Respectfully submitted,

By: Steven L. Nichols (Reg. No.: 40,326)  
Attorney/Agent for Applicant(s)  
Telephone No.: (801) 572-8068  
Date: December 14, 2006

Dale Cheney

RECEIVED  
CENTRAL FAX CENTER  
DEC 14 2006

10/021,267

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Patent Application of

Dale S. Cheney

Application No. 10/021,267

Filed: October 29, 2001

For: Vehicle Storage Box with Single  
Hinged Double Secured Compartments  
and Dual Actuating Cam Latches

Group Art Unit: 3781

Examiner: MAI, Tri M.

APPEAL BRIEF

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is an Appeal Brief under Rule 41.37 appealing the decision of the Primary Examiner dated July 19, 2006. Each of the topics required by Rule 41.37 is presented herewith and is labeled appropriately.

12/15/2006 TBESHAH1 00000028 100013 10021267  
01 FC:2402 250.00 DA

Dale Cheney

10/021,267

### **I. Real Party in Interest**

At present, no assignment for this application has been recorded. However, the inventor and Appellant is a principal of West Deseret, LLC of Utah ("West Desert"). West Desert is expected to market the subject matter described in the present application and may acquire an interest in, or ownership of, this patent application. Therefore, West Desert may be considered a Party in Interest.

### **II. Related Appeals and Interferences**

There are no appeals or interferences related to the present application of which the Appellants are aware.

### **III. Status of Claims**

Claims 1-26, 31-33 and 37 and have been cancelled previously without prejudice or disclaimer. Claims 27-30, 34-36 and 38-53 are currently pending for further action. Claims 29, 40-42 and 50-52 have been designated as containing allowable subject matter. Claims 27, 28, 30, 34-36, 38, 39, 43-49 and 53 stand finally rejected. Accordingly, Appellant appeals from the rejection of claims 27, 28, 30, 34-36, 38, 39, 43-49 and 53, which claims are presented in the Appendix.

Dale Cheney

10/021,267

#### IV. Status of Amendments

Appellant filed one after-final response subsequent to the final Office Action of July 19, 2006. However, that response proposed no amendment to the application. Consequently, its entry into the record has no effect on the present appeal.

#### V. Summary of Claimed Subject Matter

In the present application, Appellant claims a vehicle storage box. One significant advantage of Appellant's box is the ability of its lid coupler to engage the lid of the box while the lid is still in an opened position, i.e., before the lid is fully closed. As explained in Appellant's specification, "[l]id actuator 22 is constructed to rotate substantially 180 degrees about bolt 36. The need to rotate substantially 180 degrees is a function of hooking cam 45. *To enable the user to hook lid latch 24 while lid 14 is still in an opened position*, and to then rotate lid actuator 22 to its final position wherein lid latch 24 completely tracks [within] cam 47 pulling lid 14 *to a closed and secured position.*" (Appellant's specification, paragraph 0039) (emphasis added). Thus, as defined in Appellant's specification, an "opened position" includes a position in which the lid is not fully closed, but is within reach of the hooking cam 45 which then hooks lid latch 24 to track the lid to "a closed and secured position." (Appellant's specification, paragraph 0039).

Turning to specific claims, claim 27 recites:

A vehicle storage box (10), comprising:

a) a base structure (12);

Dale Cheney

10/021,267

b) a lid (14), pivotally connected to the base structure (12), shaped to enclose the base structure (12); and

c) a lid coupler (23) comprising a first and second adjustable lid actuator (22) and a first and second adjustable lid latch (24), connected to the lid (14) and the base structure (12), shaped to releasably couple the lid (14) to the base structure (12), the lid coupler (23) having a first coupling position occurring when the lid (14) is in an opened position (*Appellant's specification, paragraph 0036*);

d) the lid actuator (22) including a hooking cam (45) to engage the lid latch (24) while the lid (14) is in an opened position (*Appellant's specification, paragraph 0035*) such that, as the lid actuator (22) is rotated, the lid latch (24) tracks along the hooking cam (45) of the lid actuator (22) while the lid (14) is pulled down; and

e) the first and second lid actuators (22) being coupled together by a cable and pulley system wherein a pulley (40) is coupled to each of the lid actuators (22) and connected by a cable (30) for simultaneous operation of the first and second lid actuators (22) (*Appellant's specification, paragraph 0037*).

Claim 35 recites:

A storage box (10) for use with vehicles comprising:

a) a base structure (12);

b) a lid (14), pivotally connected to the base structure (12), shaped to enclose a portion of

the base structure (12); and

c) lid coupling means, connected to the lid (14) and the base structure (12), for releasably coupling the lid (14) to the base structure (12), and having a first coupling position occurring when the lid (14) is in an opened position (*Appellant's specification, paragraph 0036*); and

d) the lid coupling means including a lid latch (24) coupled to the lid (14), and means, rotatably coupled to the base structure (12), for engaging and latching the lid latch (24) while in the first coupling position (*Appellant's specification, paragraph 0037*); and

Dale Cheney

10/021,267

e) the means for engaging and latching the lid latch (24) including a hooking cam (45) for facilitating closing and securing the lid (14) to the base structure (12), the hooking cam (45) on a lid actuator (22) engages the lid latch (24) while the lid (14) is in an opened position such that, as the lid actuator (22) is rotated, the lid latch (24) tracks along the hooking cam (45) of the lid actuator (22) wherein the lid (14) is pulled down, the lid (14) being securely closed upon complete travel of the lid latch (24) along the hooking cam (45); wherein the lid actuator (22) rotates substantially 180 degrees along the hooking cam (45) such that the lid latch (24) is forced through cam action motion (*Appellant's specification, paragraph 0037*).

Claim 43 recites:

A vehicle storage box (10), comprising:

- a) a base structure (12);
- b) a lid (14), pivotally connected to the base structure (12), shaped to enclose the base structure; and
- c) a lid coupler (23), connected to the lid (14) and the base structure (12), shaped to releasably couple the lid (14) to the base structure (12), the lid coupler (23) having a first coupling position occurring when the lid (14) is in an opened position (*Appellant's specification, paragraph 0035*), the lid coupler (23) including an adjustable lid actuator (22) and an adjustable lid latch (24), each rotatable in a common plane substantially parallel to a front of the base structure (12) (*Appellant's specification, paragraph 0037*).

I Claim 53 recites:

- A vehicle storage box (10), comprising:
- a base structure (12);
  - a lid (14), pivotally connected to the base structure (12); and
  - a lid coupler (23) (*Appellant's specification, paragraph 0036*) configured to releasably couple the lid (14) to the base structure (12), the lid coupler (23) having a first



Dale Cheney

10/021,267

coupling position in which the lid coupler (23) engages the lid (14) when the lid (14) is in an opened position (*Appellant's specification, paragraph 0035*).

#### **VI. Grounds of Rejection to be Reviewed on Appeal**

In the final rejection of July 19, 2006, the following grounds of rejection were raised.

- (1) Claims 27, 28, 30, 34 and 53 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,363,226 to Remington et al. ("Remington").
- (2) Claims 35 and 36 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 1,155,447 to Saunders ("Sanders").
- (3) Claim 53 was further rejected under 35 U.S.C. § 102(b) as anticipated by any one of three other prior art references: (1) U.S. Patent No. 532,067 to Howe ("Howe"), (2) U.S. Patent No. 2,708,302 to Wilkirson ("Wilkirson") or (3) U.S. Patent No. Re 16,643 to Luce ("Luce").
- (4) Claims 35, 36, 38, 39, 43-49 and 53 were rejected as anticipated under 35 U.S.C. § 102(b) by U.S. Patent No. 460,437 to Grove ("Grove").
- (5) Claim 49 was rejected under 35 U.S.C. § 103(a) over the combined teachings of Grove and Howe.

Accordingly, Appellant respectfully requests review of these grounds of rejection in this appeal.

Dale Cheney

10/021,267

## VII. Argument

In the present application, Appellant claims a vehicle storage box. One significant advantage of Appellant's box is the ability of its lid coupler to engage the lid of the box while the lid is still in an opened position, i.e., before the lid is fully closed. As explained in Appellant's specification, "[l]id actuator 22 is constructed to rotate substantially 180 degrees about bolt 36. The need to rotate substantially 180 degrees is a function of hooking cam 45. *To enable the user to hook lid latch 24 while lid 14 is still in an opened position*, and to then rotate lid actuator 22 to its final position wherein lid latch 24 completely tracks [within] cam 47 pulling lid 14 *to a closed and secured position.*" (Appellant's specification, paragraph 0039) (emphasis added).

Thus, as defined in Appellant's specification, an "opened position" includes a position in which the lid is not fully closed, but is within reach of the hooking cam 45 which then hooks lid latch 24 to track the lid to "a closed and secured position." (Appellant's specification, paragraph 0039). Moreover, common sense would indicate that the lid can be in one closed position or in any of a number of opened positions where the lid is not closed.

In contrast, none of the cited prior art references teach or suggest a lid coupler that engages the lid when the lid is still in a partially opened position. As Appellant has previously demonstrated, each and every one of the cited prior art references teach that the lid must be closed before a lid coupler can engage and secure the lid.

Dale Cheney

10/021,267

Claims 27 and 53 are clearly patentable over Remington:

Claim 27 recites:

A vehicle storage box, comprising:

- a) a base structure;
- b) a lid, pivotally connected to the base structure, shaped to enclose the base structure; and
- c) a lid coupler comprising a first and second adjustable lid actuator and a first and second adjustable lid latch, connected to the lid and the base structure, shaped to releasably couple the lid to the base structure, the lid coupler having a first coupling position occurring when the lid is in an opened position;
- d) *the lid actuator including a hooking cam to engage the lid latch while the lid is in an opened position* such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator while the lid is pulled down; and
- e) the first and second lid actuators being coupled together by a cable and pulley system wherein a pulley is coupled to each of the lid actuators and connected by a cable for simultaneous operation of the first and second lid actuators.

(emphasis added).

In contrast, Remington does not teach or suggest the claimed hooking cam that engages the lid latch while the lid is in an opened position. Remington teaches a latching system for luggage. As best seen in Fig. 3 of Remington, the lid latch (42) cannot be engaged by cam (38) unless the lid is in a closed position.

In the recent final Office Action, the Examiner states that "Remington teaches the hook portion at 38, portion 42 can be positioned to be engaged with distal portion hook portion 38 so that the lid is slightly closed similar to that of appellant." (Action of 7/19/06, p. 5). However, the Action appears to be misreading Remington.

Remington clearly states that the lid of the luggage is closed before the latches are engaged. "The latches have hook portions 38 and 40 adapted to engage posts 42 of the respective hasps. The lock and actuator assembly 20 includes a manual actuator 44 for effecting swiveling movement of latch 34 (and through the drive mechanism corresponding movement of latch 36)

Dale Cheney

10/021,267

and a combination lock 46 for locking the actuator and latches in position when the case is closed." (Remington, col. 4, lines 7-14). Moreover, one of skill in the art looking at Fig. 3 of Remington can clearly see that the lid must be fully closed before the hook portions (38) can engage the posts (42). If the lid were in anything other than a fully closed position, the crook of the hook (38) would not engage the post (42).

Remington, and the other prior art references of record, fail to teach or suggest the claimed "lid actuator including a hooking cam to engage the lid latch while the lid is in an opened position." (Emphasis added). Moreover, the final Office Action utterly fails to indicate credibly how or where such subject matter is taught by the cited prior art, particularly Remington.

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 27 and its dependent claims based on Remington should not be sustained.

Independent claim 53 similarly recites:

A vehicle storage box, comprising:  
a base structure;  
a lid, pivotally connected to the base structure; and  
a lid coupler configured to releasably couple the lid to the base structure, *the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position.*  
(emphasis added).

As demonstrated above, Remington does not teach or suggest a "lid coupler having a *first coupling position in which the lid coupler engages the lid* when the lid is in an opened position."

Dale Cheney

10/021,267

(emphasis added). For at least this reason, the rejection of claim 53 based on Remington should also be reconsidered and withdrawn.

Claim 35 is clearly patentable over Saunders:

Claim 35 recites.

A storage box for use with vehicles comprising:

- a) a base structure;
- b) a lid, pivotally connected to the base structure, shaped to enclose a portion of the base structure; and
- c) lid coupling means, connected to the lid and the base structure, for releasably coupling the lid to the base structure, and *having a first coupling position occurring when the lid is in an opened position*; and
- d) the lid coupling means including a lid latch coupled to the lid, and means, rotatably coupled to the base structure, *for engaging and latching the lid latch while in the first coupling position*; and
- e) the means for engaging and latching the lid latch including a hooking cam for facilitating closing and securing the lid to the base structure, *the hooking cam on a lid actuator engages the lid latch while the lid is in an opened position* such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator wherein the lid is pulled down, the lid being securely closed upon complete travel of the lid latch along the hooking cam; *wherein the lid actuator rotates substantially 180 degrees along the hooking cam such that the lid latch is forced through cam action motion.*

(emphasis added).

As noted above, the prior art does not teach or suggest a lid coupled means comprising a hooking cam that engages a lid latch while the lid is still in an opened position. In this regard, Saunders teaches a "shipping can" with a latch (11) that includes an "eccentric portion" (14) that engages a "lug" (10) of the lid (6). However, as is perfectly clear from Saunders Figs. 1 and 3, the latch (11, 14) cannot engage the lug (10) unless the lid (6) is closed. Consequently, Saunders, like Remington above, fails to teach or suggest the claimed hooking cam on a lid actuator that "engages the lid latch while the lid is in an opened position."

Dale Cheney

10/021,267

Additionally, claim 35 recites that the lid actuator rotates substantially 180 degrees to move the hooking cam. According to the Office Action, "it is submitted that the curve portion 14 is about 180 degrees. Thus portion 10 can travel 180 degrees as claimed, depending on the rotating closing." (Action of 2/22/06, p. 2). This is clearly incorrect.

Firstly, lug (10) is part of the lid (6) and does not move except with opening of the lid (6). Latch (11) rotates to move the eccentric portion (14) around the lug (10) to seal the lid (6). However, the latch (11) does not rotate 180 degrees. Rather, the lid (6) is released if the latch (11) is move only 90 degrees as is evident from Saunders' Fig. 3. Moreover, the lip (9) of the lid (6) will prevent the latch (11) from moving a full 180 degrees.

Thus, with regard to claim 35, Saunders does not teach or suggest the claimed hooking cam that engages the lid latch while the lid is in an opened position and also does not teach or suggest the claimed lid actuator that rotates substantially 180 degrees. Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claims 35 and 36 based on Saunders should not be sustained.

Claim 53 is clearly patentable over Howe, Wilkirson or Luce:

Again, independent claim 53 recites:

A vehicle storage box, comprising:  
a base structure;  
a lid, pivotally connected to the base structure; and

Dale Cheney

10/021,267

a lid coupler configured to releasably couple the lid to the base structure, *the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position.* (emphasis added).

In contrast, Howe, Wilkirson and Luce, like all the other prior art references of record fail to teach or suggest the claimed lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position, as recited in claim 53.

Looking at Howe, it is perfectly clear from Fig. 2 of Howe, the latch C cannot engage unless the lid of the box is in a fully closed position. Wilkirson teaches a casket sealing system. As seen in Wilkirson's Fig. 3, the casket lid must be closed prior to engagement of the latches (50). Please refer also to Wilkirson's Fig. 13. Luce teaches a locking system for a trunk. As seen in Luce's Figs. 6 and 7, the lid of the trunk must be closed before the latches for the lid are engaged.

Thus, as stated before, none of the prior art reference cited teach or suggest the claimed lid coupler having a first coupling position that occurs when the lid is still in an opened position. Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 53 based on Howe, Wilkirson or Luce should not be sustained.

Dale Cheney

10/021,267

Claims 35, 43 and 53 are clearly patentable over Grove:

As noted above, claim 35 recites:

A storage box for use with vehicles comprising:

- a) a base structure;
- b) a lid, pivotally connected to the base structure, shaped to enclose a portion of the base structure; and
- c) lid coupling means, connected to the lid and the base structure, for releasably coupling the lid to the base structure, and *having a first coupling position occurring when the lid is in an opened position*; and
- d) the lid coupling means including a lid latch coupled to the lid, and means, rotatably coupled to the base structure, *for engaging and latching the lid latch while in the first coupling position*; and
- e) the means for engaging and latching the lid latch including a hooking cam for facilitating closing and securing the lid to the base structure, *the hooking cam on a lid actuator engages the lid latch while the lid is in an opened position* such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator wherein the lid is pulled down, the lid being securely closed upon complete travel of the lid latch along the hooking cam; *wherein the lid actuator rotates substantially 180 degrees* along the hooking cam such that the lid latch is forced through cam action motion.

(emphasis added).

As above, Grove does not teach or suggest the claimed lid coupling means having a first coupling position occurring when the lid is in an opened position. As seen in Grove's Fig. 3, the lid would have to be closed before the lower section (B<sup>2</sup>) can be rotated downward to the position shown in Fig. 1 to engage the upper section (B') and secure the lid of the box. Thus, Grove, like all the other prior art references cited fails to teach or suggest the claimed hooking cam that engages the lid latch while the lid is in an opened position.

Additionally, as noted above, claim 35 recites "the lid actuator rotates substantially 180 degrees along the hooking cam such that the lid latch is forced through cam action motion." In contrast, Grove does not teach or suggest a hooking cam that forces a lid latch through a cam action motion. Rather, in Grove, the upper section (B') is moved into the bends (b<sup>3</sup>) of the lower



Dale Cheney

10/021,267

section (B<sup>2</sup>) and retained there when the lower section (B<sup>2</sup>) is rotated downward. Thus, Grove does not teach or suggest the claimed lid actuator that rotates substantially 180 degrees along the hooking cam such that the lid latch is forced through cam action motion.

Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 35 based on Grove should not be sustained.

Claim 43 recites:

A vehicle storage box, comprising:  
a) a base structure;  
b) a lid, pivotally connected to the base structure, shaped to enclose the base structure; and  
c) a lid coupler, connected to the lid and the base structure, shaped to releasably couple the lid to the base structure, *the lid coupler having a first coupling position occurring when the lid is in an opened position*, the lid coupler including an adjustable lid actuator and an adjustable lid latch, *each rotatable in a common plane substantially parallel to a front of the base structure*.  
(emphasis added).

As demonstrated above, Grove does not appear to teach or suggest the claimed lid coupler having a first coupling position occurring when the lid is in an opened position. Moreover, Grove clearly does not teach or suggest a lid actuator and lid latch "each rotatable in a common plane substantially parallel to a front of the base structure." To the contrary, the elements of Grove's latch rotate in planes that are perpendicular to the front of the box structure. This is seen clearly in Fig. 3. Consequently, Grove does not teach or suggest, and actually teaches away

Dale Cheney

10/021,267

from, the claim lid actuator and lid latch "each rotatable in a common plane substantially parallel to a front of the base structure."

Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 43 based on Grove should not be sustained.

Independent claim 53 recites:

A vehicle storage box, comprising:  
a base structure;  
a lid, pivotally connected to the base structure; and  
a lid coupler configured to releasably couple the lid to the base structure, *the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position.*  
(emphasis added).

As demonstrated above, Grove does not appear to teach or suggest the claimed lid coupler having a first coupling position occurring when the lid is in an opened position. Moreover, Grove does not teach or suggest a "first *and* second adjustable actuator" and a "first *and* second adjustable lid latch," as claimed. To the contrary, Grove merely teaches a single upper section (B') cooperating with a single lower section (B<sup>2</sup>) to latch the box lid. Grove's system does not including first and second actuators or first and second lid latches that together form a lid coupled that couples in a first coupling position when the lid is still in an opened position.

Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art

Dale Cheney

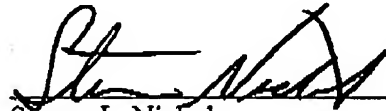
10/021,267

reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least this reason, the rejection of claim 53 based on Grove should not be sustained.

In view of the foregoing, it is submitted that the final rejection of the pending claims is improper and should not be sustained. Therefore, a reversal of the Rejection of July 19, 2006 is respectfully requested.

Respectfully submitted,

DATE: December 14, 2006

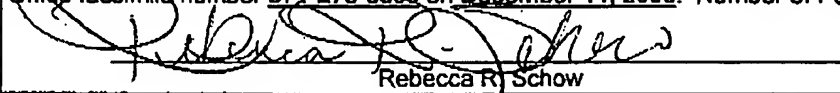


Steven L. Nichols  
Registration No. 40,326

Steven L. Nichols, Esq.  
Managing Partner, Utah Office  
Rader Fishman & Grauer PLLC  
River Park Corporate Center One  
10653 S. River Front Parkway, Suite 150  
South Jordan, Utah 84095  
(801) 572-8066  
(801) 572-7666 (fax)

## CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the Patent & Trademark Office facsimile number 571-273-8300 on December 14, 2006. Number of Pages: 28



Rebecca R. Schow

Dale Cheney

RECEIVED  
CENTRAL FAX CENTER  
DEC 14 2006

10/021,267

**VIII. CLAIMS APPENDIX**

1-26. (canceled).

27. (previously presented) A vehicle storage box, comprising:

a) a base structure;

b) a lid, pivotally connected to the base structure, shaped to enclose the base structure;

and

c) a lid coupler comprising a first and second adjustable lid actuator and a first and second adjustable lid latch, connected to the lid and the base structure, shaped to releasably couple the lid to the base structure, the lid coupler having a first coupling position occurring when the lid is in an opened position;

d) the lid actuator including a hooking cam to engage the lid latch while the lid is in an opened position such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator while the lid is pulled down; and

e) the first and second lid actuators being coupled together by a cable and pulley system wherein a pulley is coupled to each of the lid actuators and connected by a cable for simultaneous operation of the first and second lid actuators.

28. (previously presented) The storage box of claim 27, wherein the base structure is configured to attach to a vehicle, and has a length sized to fit between side walls of a truck bed.

**Dale Cheney****10/021,267**

29. (previously presented) The storage box of claim 27, wherein the lid actuator rotates substantially 180 degrees such that the lid latch is forced through cam action motion.

30. (previously presented) The storage box of claim 27, wherein the hooking cam comprises a hook, a cam, and a notch, wherein the notch is shaped and positioned to receive and retain the lid actuator when the lid is in a closed and secured position.

31-33. (canceled).

34. (previously presented) The vehicle storage box of claim 27, wherein the first and second lid latches are substantially L-shaped members having a latching point for engaging respectively the first and second lid actuators.

35. (previously presented) A storage box for use with vehicles comprising:

- a) a base structure;
- b) a lid, pivotally connected to the base structure, shaped to enclose a portion of the base structure; and
- c) lid coupling means, connected to the lid and the base structure, for releasably coupling the lid to the base structure, and having a first coupling position occurring when the lid is in an opened position; and

**Dale Cheney****10/021,267**

d) the lid coupling means including a lid latch coupled to the lid, and means, rotatably coupled to the base structure, for engaging and latching the lid latch while in the first coupling position; and

e) the means for engaging and latching the lid latch including a hooking cam for facilitating closing and securing the lid to the base structure, the hooking cam on a lid actuator engages the lid latch while the lid is in an opened position such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator wherein the lid is pulled down, the lid being securely closed upon complete travel of the lid latch along the hooking cam; wherein the lid actuator rotates substantially 180 degrees along the hooking cam such that the lid latch is forced through cam action motion.

36. (previously presented) The storage box of claim 35, wherein the base structure is configured to attach to a vehicle, and has a length sized to fit between side walls of a truck bed.

37. (canceled).

38. (previously presented) The storage box of claim 35, wherein the hooking cam comprises a hook, a cam, and a notch, wherein the notch is shaped and positioned to receive and retain the lid actuator when the lid is in a closed and secured position.

39. (previously presented) The storage box of claim 35, wherein the lid coupling

**Dale Cheney****10/021,267**

means comprises a first and second adjustable lid actuator and a first and second adjustable lid latch.

40. (previously presented) The storage box of claim 39, wherein the first and second lid actuators are coupled together by a lid actuator connector for simultaneous operation of the first and second lid actuators.

41. (previously presented) The storage box of claim 40, wherein the lid actuator connector comprises a cable and pulley system wherein a pulley is coupled to each of the lid actuators and connected by a cable.

42. (previously presented) The storage box of claim 39, wherein the first and second lid latches are substantially L-shaped members having a latching point for engaging respectively the first and second lid actuators.

43. (previously presented) A vehicle storage box, comprising:

- a) a base structure;
- b) a lid, pivotally connected to the base structure, shaped to enclose the base structure; and
- c) a lid coupler, connected to the lid and the base structure, shaped to releasably couple the lid to the base structure, the lid coupler having a first coupling position occurring when the

**Dale Cheney****10/021,267**

lid is in an opened position, the lid coupler including an adjustable lid actuator and an adjustable lid latch, each rotatable in a common plane substantially parallel to a front of the base structure.

44. (previously presented) The storage box of claim 43, wherein the base structure is configured to attach to a vehicle, and has a length sized to fit between side walls of a truck bed.

45. (previously presented) The storage box of claim 43, wherein

a) the lid coupler includes a lid latch and a lid actuator; and

b) the lid actuator including a hooking cam to engage the lid latch while the lid is in an opened position such that, as the lid actuator is rotated, the lid latch tracks along the hooking cam of the lid actuator while the lid is pulled down.

46. (previously presented) The storage box of claim 45, wherein the lid actuator rotates substantially 180 degrees such that the lid latch is forced through cam action motion.

47. (previously presented) The storage box of claim 43, wherein

a) the lid coupler includes: 1) a lid latch coupled to the lid, and 2) a lid actuator, rotatably coupled to the base structure, to engage and latch the lid latch while in the first coupling position; and

b) the lid actuator including a hooking cam to facilitate closing and securing the lid to the base structure, the hooking cam on the lid actuator engaging the lid latch while the lid is in an opened position such that, as the lid actuator is rotated, the lid latch tracks



**Dale Cheney****10/021,267**

along the hooking cam of the lid actuator wherein the lid is pulled down, the lid being securely closed upon complete travel of the lid latch along the hooking cam, the lid actuator rotating substantially 180 degrees such that the lid latch is forced through cam action motion.

48. (previously presented) The storage box of claim 47, wherein the hooking cam comprises a hook, a cam, and a notch, wherein the notch is shaped and positioned to receive and retain the lid actuator when the lid is in a closed and secured position.

49. (previously presented) The vehicle storage box of claim 43, wherein the lid coupler comprises a first and second adjustable lid actuator and a first and second adjustable lid latch.

50. (previously presented) The vehicle storage box of claim 49, wherein the first and second lid actuators are coupled together by a lid actuator connector for simultaneous operation of the first and second lid actuators.

51. (previously presented) The vehicle storage box of claim 50, wherein the lid actuator connector comprises a cable and pulley system wherein a pulley is coupled to each of the lid actuators and connected by a cable.

**Dale Cheney****10/021,267**

52. (previously presented) The vehicle storage box of claim 50, wherein the first and second lid latches are substantially L-shaped members having a latching point for engaging respectively the first and second lid actuators.

53. (previously presented) A vehicle storage box, comprising:

- a base structure;
- a lid, pivotally connected to the base structure; and
- a lid coupler configured to releasably couple the lid to the base structure, the lid coupler having a first coupling position in which the lid coupler engages the lid when the lid is in an opened position.

Dale Cheney

10/021,267

**IX. Evidence Appendix**

None

**X. Related Proceedings Appendix**

None

**XI. Certificate of Service**

None